



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

April 14, 2004

SUBJECT: **2004-0186** - Application for a 11,394 square foot site located at **1492 Revelstoke Way** in an R-1 (Low Density Residential) Zoning District (APN: 323-29-029)

Motion Variance from Sunnyvale Municipal Code section 19.48.100 to allow a side yard setback of 3 feet 9 inches where 6 feet is required for the placement of an air conditioning unit.

REPORT IN BRIEF

Existing Site Single Family Home

Conditions

Surrounding Land Uses

North Single Family Residential

South Single Family Residential

East Single Family Residential

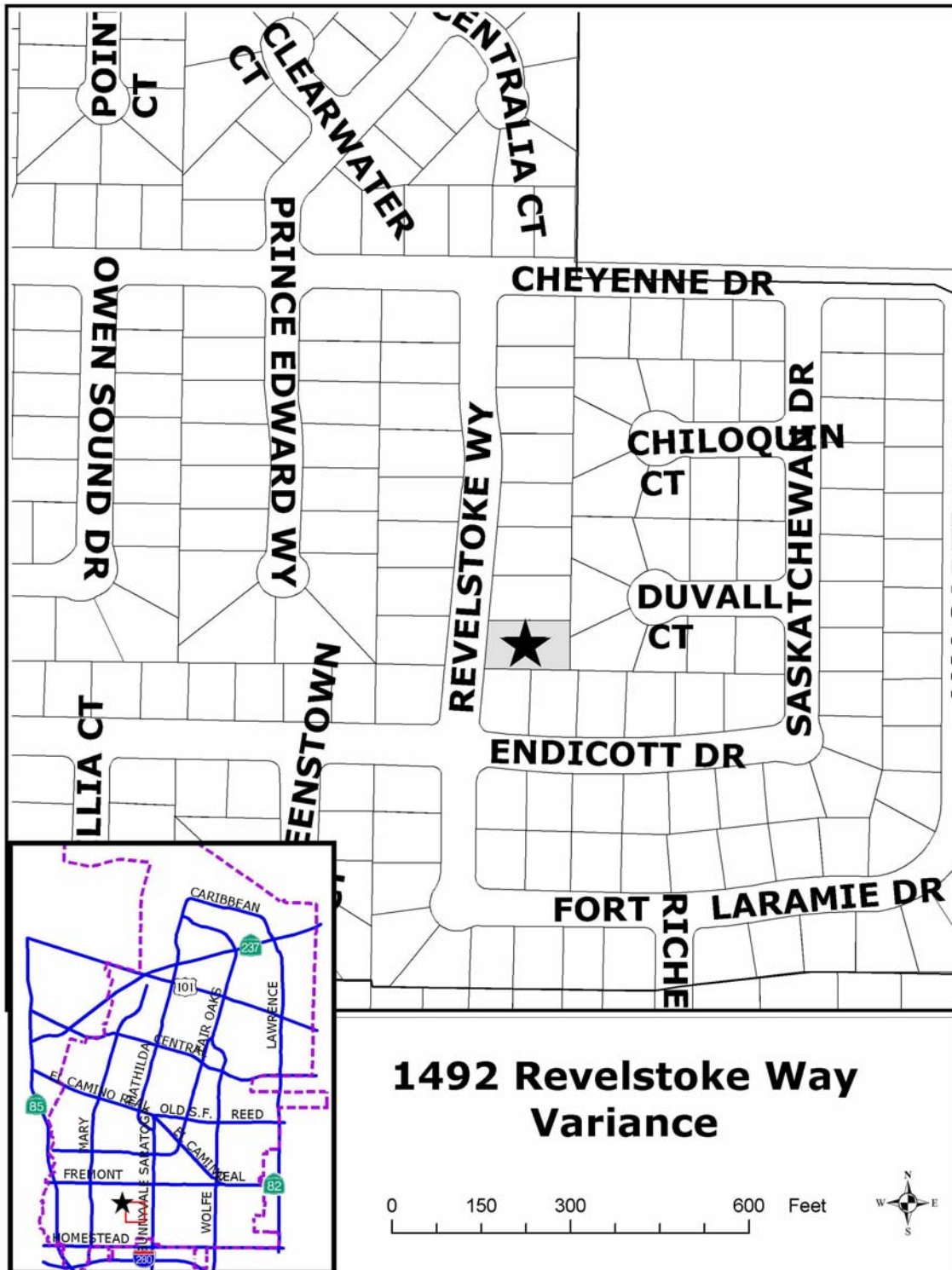
West Single Family Residential

Issues Setbacks

Environmental Status A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Denial

Recommendation



PROJECT DATA TABLE

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>REQUIRED/ PERMITTED</u>
General Plan	Residential Low Density	Same	---
Zoning District	R-1	Same	---
Lot Size (s.f.)	11,394	Same	min.
Setbacks (facing prop.)			
• Front	26'	Same	20' min.
• Left Side (A/C Unit)	6'2"	3'9"	6' min.
• Right Side	9'	Same	9' min.
• Rear	45'	Same	20' min.

ANALYSIS**Background**

Previous Actions on the Site: There are no previous planning items related to this site.

Description of Proposed Project

The proposed project is for a Variance to allow an air conditioning unit within the required side yard. Sunnyvale Municipal Code Section 19.48.100 states that "any mechanical equipment which is higher than eighteen inches must meet the side and rear yard setbacks of the zoning district of the property where such equipment is located."

The Neighborhood Preservation Division was originally notified of the unit installed without permits by the previous property owner in November of last year. Originally, the unit was believed to not comply with City noise standards. However, it was determined that the air conditioning unit did comply with these requirements, but a permit is still needed. However, the unit does not currently meet side yard setback requirements. The unit currently lies 3 feet 9 inches away from the side property line. The minimum side yard setback is 6 feet for properties located in the R-1 Zoning District. Therefore, a Variance must be approved to allow the air conditioning unit to remain at its current location. The current property owners were notified of the necessity for a permit in December of last year, and the Variance application was submitted in March of this year.

Environmental Review

A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 11 Categorical Exemptions include accessory structures.

Variance

Site Layout: The subject site is a single family house. The location of the air conditioning unit is on the left side (north side) of the house. The required minimum side yard setback for the R-1 Zoning District is 6 feet. The air conditioning unit is located 3 feet 9 inches away from the side property line. In order to meet the required setbacks the unit would have to need be relocated to the rear portion of the home. The opposite side yard has a larger setback but lack sufficient space to place the equipment. A site plan is included in Attachment #3.

Compliance with Development Standards

With the exception of the side yard setback, the site meets all development standards for single family homes in the R-1 Zoning District.

In order to grant a Variance, three findings must be made (See Attachment 1). The applicant has submitted justifications for the Variance, based on site constraints due to the existing layout of the floor plan. The applicant states that the other locations allow for direct sunlight to affect the efficiency of the unit. The current location is on a side of the house not often walked and free of debris. (See Attachment #4 for more detail) However, staff was not able to make the Findings and recommends denial of the Variance.

Expected Impact on the Surroundings

The location of the air conditioning unit within the side yard is completely screened from view by an existing fence. It has been determined that the unit complies with City noise requirements which states that sound levels should not exceed 50 dBA during nighttime or 60 dBA during daytime hours on adjacent residentially zoned property. No impact is expected on the adjoining property.

Findings, General Plan Goals and Conditions of Approval

Staff is recommending denial for this project because the Findings (Attachment 1) were not made. However, if the Administrative Hearing Officer is able to make the required findings, staff is recommending Conditions of Approval (Attachment 2).

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Staff has received one letter in support for the Variance from an adjacent resident (See Attachment #5.).

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• Mailed to the adjacent property owners of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Alternatives

1. Deny the Variance.
2. Approve the Variance with the attached conditions.
3. Approve the Variance with modified conditions.

Recommendation

Alternative 1.

Prepared by:

Ryan Kuchenig
Project Planner

Reviewed by:

Diana O'Dell
Senior Planner

Attachments:

1. Findings
2. Conditions of Approval
3. Site and Architectural Plans
4. Letter from the Applicant
5. Letter from adjacent neighbor

Recommended Findings - Variance

1. *Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.*

The subject property does not have unique characteristics that would deprive the property owner of any rights or privileges. The subject site meets Zoning standards in terms of lot size and lot width. Staff does not believe that the overall floor plan and position of the home is unique to the neighborhood. Therefore, staff does not find any exceptional circumstances for this property.

2. *The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.*

The granting of the Variance would not be a detriment to the public welfare or injurious to the property or surroundings. The unit is completely screened from public view and also meets the City's noise ordinance requirements for mechanical equipment.

3. *Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.*

The purpose of the setback requirement is to allow adequate space between mechanical equipment and property lines. The unit can be relocated to the rear yard and therefore meet setback requirements. Staff cannot make this finding.

Recommended Conditions of Approval - Variance

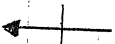
Staff recommends denial of the Variance. However, if the Administrative Hearing Officer is able to make the required findings, staff is recommending the following Conditions of Approval.

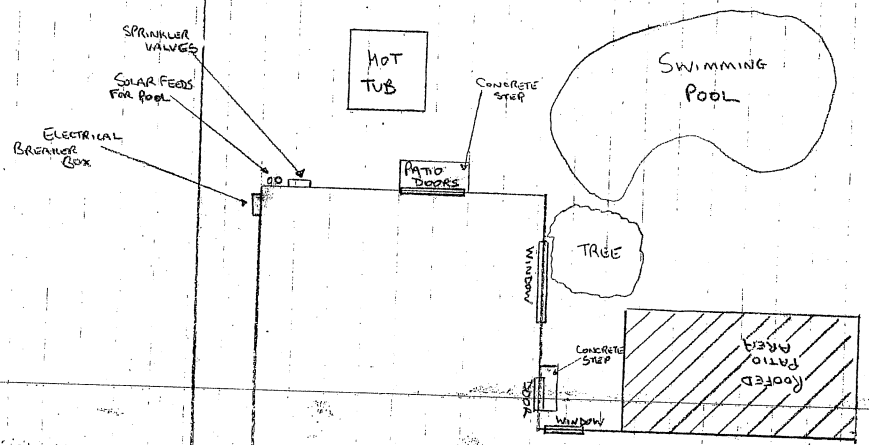
In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this permit:

1. The two-year expiration date of the Variance shall be measured from the date of the approval by the final review authority at a public hearing if the approval is not exercised.
2. The applicant shall obtain a building permit.
3. The air conditioning unit shall comply with the noise requirements set forth in Section 19.42.030 of Sunnyvale Municipal Code.

1492 REVELSTOKE WAY

SCALE
2mm = 1 Foot

NORTH 



AIR CONDITIONING UNIT

NOTE { DISTANCE FROM AIR CONDITIONER TO FURNACE UNIT EVAPORATOR COIL NEEDS TO BE MINIMIZED TO FUNCTION AND BE EFFICIENT

FURNACE UNIT IN ATTIC

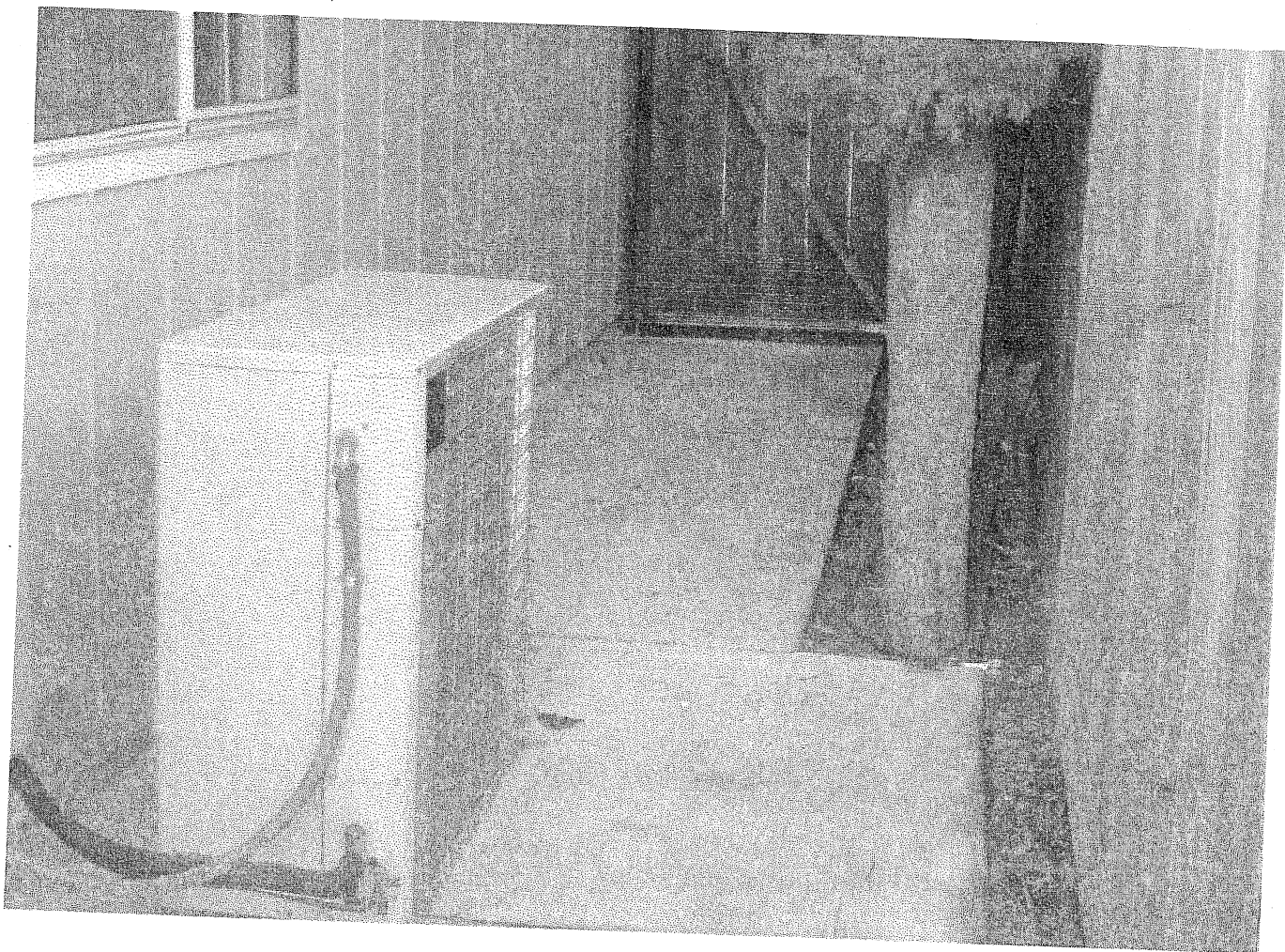
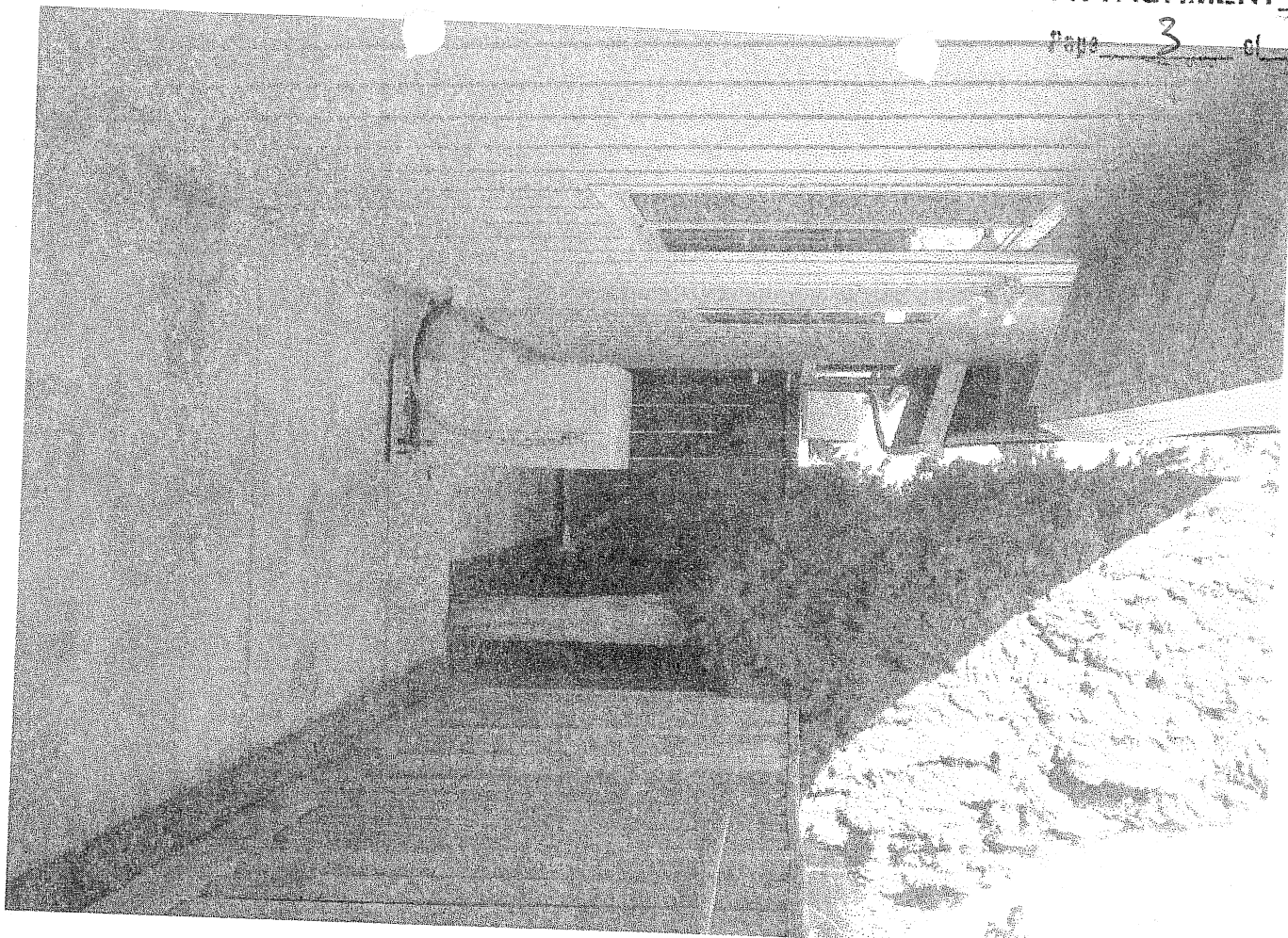
ROOFED PORCH

TREE

GARAGE ENTRANCE

1492 REVELSTOCK WAY





1492 REVERSTOKE WAY

Variance Justification
1492 Revelstoke Way
02/27/04

Brief Description of Project:

Request for a variance for an **already installed** Air Conditioning unit.

We have recently moved into the house. In the latter weeks of the previous tenant's tenure a request to have the noise level measured of the air conditioning unit was made by a neighbor. The measurements taken by Robert Staley, Sr., Neighborhood Preservation Department showed the noise levels were within required specifications and were to the satisfaction of the neighbor.

On moving into the property we have now been advised that although the noise levels are within limits and satisfactory to the neighbor the placement of the Air Conditioning unit is not in conformance with City requirements and a variance must be applied for. It was also stated that the application had to be made within a very short timeframe.

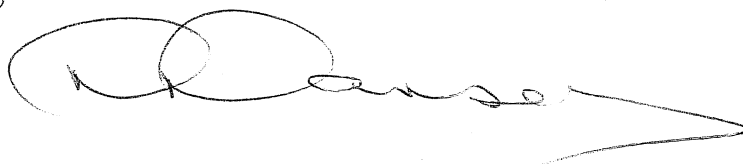
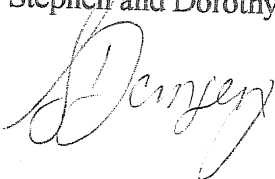
Justifications :

1. We feel the exceptional circumstances here are:
 - The air conditioner, already installed by previous tenants, has noise measurements shown to be within limits and acceptable to the neighbor. Discussions with the neighbor have confirmed this.
 - Due to the present winter conditions and being new to the property we have not had the opportunity to use the unit to appreciate for ourselves any issues that may or may not exist with it.
2. We feel that the unit's position is in no way detrimental to public welfare or injurious to the property.
 - The noise levels have been approved.
 - The unit is "slim" leaving sufficient space for people to walk around it without fear of injury. (See photos and measurements attached to application)
3. We feel that receipt of a Variance for the position and use of said air conditioner would in ~~now~~ way grant special privileges that could not be enjoyed by surrounding property owners.

Comment:

While we believe it important to abide by zoning regulations we feel that given the nature of the unit's pre-installation by previous owners and not ourselves, demonstrated noise measurements within limits and to acceptance of neighbor, and placement of slim unit with still significant area surrounding it we respectfully ask the Variance be granted.

Sincerely,
Stephen and Dorothy Dansey



RE: A/C variance for 1492 Revelstoke Way

In addition to the site plan indicating the position of the present A/C unit as installed by the previous homeowners we would like to outline the following:

- 1) According to the previous homeowners the A/C unit was positioned as shown on the site map because of it's locality to the furnace fan that is positioned in the attic immediately above and inside the house. The furnace fan area is where the A/C Evaporator Coil is contained which, apparently, is to be within a limited distance to the external A/C unit's Condensing Coil. It is our belief that if the unit was to be positioned on the east, west or south sides of the house the limit between Evaporator Coil and Condensing Coil would be exceeded, or at best provide ineffective and inefficient circulation.
- 2) The present position of the A/C unit on the north side of the house keeps the unit's Condensing Coil out of direct sunlight. To place it on any other side of the house will subject the unit to direct sunlight, reducing the efficiency of the unit with associated increase in cost due to wasted energy.
- 3) The present position of the A/C unit is on a side of the house that is not often walked and is free of debris such as leaves, grass, plants etc. To place it on any other side of the house opens the fragile Condensing Coil fins up to damage and debris which would lead to shortened and less effective lifetime, hence increased costs and wasted energy.

I hope that these points taken in conjunction with the neighbor's letter of support and the previous variance justification statements allow you to grant the requested variance.

Regards,

Steve and Dorothy Dansey.

Mike and Fiona Sadowski
1486 Revelstoke Way
Sunnyvale, CA 94087
March 22nd, 2004

Re: A/C Variance Request for 1492 Revelstoke Way

The City of Sunnyvale
Building Inspection Division
P.O. Box 3707
Sunnyvale, CA 94088-3707

To whom it may concern:

We are writing to you regarding the air conditioning variance application submitted by Mr. and Mrs. Dansey.

We are the neighbors on the air conditioning side. Prior to Mr. and Mrs. Dansey's ownership we filed a complaint with the City that the air conditioning unit appeared loud. Robert Staley, from the City neighborhood planning, came out and reviewed the sound levels of the air conditioner in use. He assured us that the noise was within the acceptable levels as required by local codes. Based on this information we have accepted that the noise issue is something that we have to deal with.

We understand that in raising the issue of the noise it was discovered that the previous owners of the house had not obtained a building permit for the air conditioner. Mr. and Mrs. Dansey have requested a variance to leave the unit where it is currently located (5ft from the property line instead of 6ft.).

The air conditioning unit is not visible from our property at all and given that the noise levels are within code we, as neighbors, do not object to this variance request.

Sincerely


Fiona Sadowski

Michael and Fiona Sadowski

cc: Mr. and Mrs. Dansey